IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WP(C).No. 15554 of 2007(B)

PETITIONER:

B.ALPHONSE,
ANIL NIVAS, KULANGARA BHAGAOM, CHAVARA P.O.,
KOLLAM.

BY ADV. DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR
SRI.M.R.JAYAPRASAD

RESPONDENTS:
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1. INDIAN RARE EARTHS LTD.,
REPRESENTED BY ITS CHIEF GENERAL MANAGER,
CHAVARA P.O., KOLLAM.

2. THE SUB INSPECTOR OF POLICE,
CHAVARA POLICE STATION, KOLLAM.

3. YOHANNAN,
BLAGATHU VEEDU, KARITHURA, CHAVARA P.O.,KOLLAM.

4. JOSHUA,
PUTHENVEETTIL, KARITHURA, CHAVARA P.O.,
KOLLAM.

5. JOSE,
JOY BHAVANAM, KARITHURA, CHAVARA P.O., KOLLAM.

BY ADV. SRI.DENU JOSEPH
BY GOVT. PLEADER SRI. P.A. SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT: P1: TRUE COPY OF THE WORK ORDER ISSUED BY THE FIRST RESPONDENT TO THE PETITIONER DATED 16.5.2007.

EXT.P2: TRUE COPY OF THE RELEVANT PAGES OF THE TENDER NOTICE.

EXT.P3: TRUE COPY OF THE MEMORANDUM SUBMITTED TO THE FIRST RESPONDENT BY THE UNION LEADRES DATED 20.11.2006.

EXT.P4: TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT DATD 22.5.2007

// TRUE COPY //

P.S. TO JUDGE.

P.R. RAMAN & K. HEMA, JJ.

W.P.(C).No.15554 of 2007

Dated this the 31st day of May, 2007.

JUDGMENT

Raman, J.

The petitioner is a contractor awarded with the work of dredging area clearance and alleged work of transportation of concentrate for two years by the Indian Rare Earths Ltd. It is alleged that while the petitioner commenced the work pursuant to the awarding of contract, respondents 3 to 5 and their associates have forcibly obstructed the work demanding higher amounts by way of honorarium, even though they are not doing any work.

2. Respondent Nos. 4 and 5, in their counter-affidavit, denied the allegation and stated that they have not caused any physical obstruction to the work of the petitioner as alleged in the petition. They also denied the fact that they are not doing any work. Their apprehension is that by obtaining an order of police protection, the petitioner shall not deny them their legal dues. Learned Government Pleader, appearing on behalf of the State, submits that in case of any physical obstruction caused by respodents 3 to 5, the State will render adequate protection.

3. After hearing the parties and perusing the averments made in the

writ petition and the counter affidavit, we dispose of the writ petition as follows:

The allegation in paragraph 3 of the counter-affidavit that no physical obstruction is caused by respondent Nos.4 and 5 is recorded. In case, contrary to the undertaking given, any obstruction is caused either by respondents 3 to 5 or any person under them, it is open to the petitioner to approach second respondent, in which event, second respondent will give necessary protection to remove such physical obstruction. It is made clear that if there is any right conferred on respondents 3 to 5 regarding any wages or emoluments due or payable from the petitioner, it is open to them to seek legal recourse and this order will not adversely affect any such right, if any.

Writ Petition is disposed of as above.

P.R.RAMAN, JUDGE.

K. HEMA, JUDGE.

Krs.